



CITY OF SAN JOSÉ, CALIFORNIA

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City Clerk

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Lee Price, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 28757**", the original copy of which is attached hereto, was passed for publication of title on the **15th day of June, 2010**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **22nd day of June, 2010**, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **23rd day of July, 2010**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **28th day of June, 2010**.

(SEAL)

LEE PRICE, MMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

RD:RG

File No. PDC09-023

ORDINANCE NO. 28757**AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED AT THE NORTH SIDE OF AUZERAIS AVENUE BETWEEN BIRD AVENUE AND ROYAL AVENUE (395 BIRD AVENUE) FROM LI-LIGHT INDUSTRIAL TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT**

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, the area encompassed by the subject proposed rezoning was found to be exempt from the California Environmental Quality Act of 1970 (CEQA), as amended, which determination was found to be complete by the Planning Commission on February 10, 2010, under File No. PDC09-023, and which determination has not been challenged, protested or appealed; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to A(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves said Exemption prior to taking any approval actions on this project.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as A(PD) Planned Development Zoning District. The base zoning district of the subject property shall be the A-Agricultural Zoning District. The Planned Development zoning of the subject property shall be that development plan for the subject property entitled, "Chevron Gas Station Food Mart & Carwash," **last revised December 10, 2009.**

Said General Development Plan is on file in the office of the Director of Planning and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No. PDC09-023 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this 15th day of June, 2010 by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA BEING A PORTION OF LOTS 17, 19, 20, 22, 23, 24, 25 AND 26, AS SHOWN ON THE MAP OF WRIGHTS SUBDIVISION IN SUNOL DIVISION, WHICH MAP IS ON FILE IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, IN BOOK "G" OF MAPS, PAGE 49.

COMMENCING AT THE MOST EASTERLY CORNER OF LOT 21, AS SHOWN ON SAID MAP; THENCE RUNNING ALONG THE NORTHEASTERLY LINE OF SAID LOTS 21, 19 AND 17, SAID LINE BEING THE SOUTHWESTERLY LINE OF BIRD AVENUE (60.00 FEET IN WIDTH), NORTH 36° 00' 08" WEST 215.06 FEET TO THE MOST NORTHERLY CORNER OF SAID LOT 17; THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT 17 SOUTH 54° 00' 55" WEST 68.00 FEET TO A POINT OF THE PROPOSED SOUTHWESTERLY LINE OF BIRD AVENUE SAID LINE BEING PARALLEL WITH AND DISTANT 68.00 FEET SOUTHWESTERLY OF THE EXISTING SOUTHWESTERLY LINE, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID PROPOSED LINE SOUTH 36° 00' 08" EAST 135.05 FEET TO A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 01' 03" AN ARC DISTANCE OF 78.55 FEET TO A POINT ON THE PROPOSED LINE OF AUZERAIS STREET, SAID PROPOSED LINE BEING PARALLEL WITH AND DISTANT 30.00 FEET NORTHWESTERLY OF THE EXISTING NORTHWESTERLY; THENCE ALONG SAID PROPOSED LINE SOUTH 54° 00' 55" WEST 94.61 FEET TO A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 01' 20" AN ARC DISTANCE OF 39.28 FEET TO A POINT OF THE PROPOSED NORTHEASTERLY LINE OF ROYAL AVENUE, SAID PROPOSED LINE BEING PARALLEL WITH AND DISTANT 5.00 FEET NORTHEASTERLY OF THE EXISTING NORTHEASTERLY LINE; THENCE ALONG SAID PROPOSED LINE NORTH 35° 57' 45" WEST 120.06 FEET TO THE NORTHWESTERLY LINE OF SAID LOT 20; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 54° 00' 55" EAST 115.02 FEET TO THE MOST NORTHERLY CORNER OF SAID LOT 20, SAID POINT ALSO BEING THE MOST SOUTHERLY CORNER OF LOT 17; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LOT 17 NORTH 35° 59' 05" WEST 40.00 FEET TO THE MOST WESTERLY CORNER OF SAID LOT 17; THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT 17 NORTH 54° 00' 55" EAST 54.53 FEET TO THE TRUE POINT OF BEGINNING.

APN: 264-20-121